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SUBJECT: NICARAGUA: GON PREPARES FOR BILATERAL PROPERTY CLAIMS
REVIEW

REF: MANAGUA 1370

SUMMARY

1. (SBU) During the November 26 Property Working Group meeting, Ruth Zapata, Head of the Office of Assessment and Indemnification (OCI), said that she and her colleagues were looking forward to the bilateral review to clarify issues of concern to the USG and GON. Jeanette Garcia, President of the National Confiscations Review Commission (CNRC) complained that the suspension of the Millennium Challenge Account's assistance for the title restitution program would result in the loss of staff at the CNRC. Econoff noted that the dismissal a U.S. citizen claim under Decree 38 was nothing more than a politically-motivated, arbitrary act that lacked transparency and a formal appeals process. Throughout the meeting, Zapata asserted that the Attorney General's Office was working diligently to resolve claims, and pleaded for patience and understanding. GON officials will find it difficult to explain, however, Decree 3 and 38 and administrative dismissals, and the lack of fairness and transparency in determining settlement offers. End Summary.

PREPARING FOR BILATERAL REVIEW

2. (SBU) On November 26, Econoff met with Ruth Zapata, Head of the Office of Assessment and Indemnification (OCI), Jeanette Garcia, President of the National Confiscations Review Commission (CNRC), and Magally Bravo, an official from the Office of the Property Superintendent, to hold the November Property Working Group meeting. Zapata said they were not fully prepared to discuss the list of 60 claims that the Embassy Property Office sent to Attorney General Hernan Estrada on November 12. Her excuse was that her work and that of her colleagues had focused on preparing for the bilateral review on December 11-12. Zapata said that the GON was looking forward to the bilateral review to clarify issues of concern to the USG and GON. Zapata declined to share which issues she was referring to.

SUSPENSION OF MCC FUNDING IMPACTS CNRC

3. (SBU) Garcia complained that the suspension of Millennium Challenge Corporation assistance for the property restitution program (reftel) would result in the loss of four employees at the CNRC. She said that these employees conducted land surveys that the CNRC used to evaluate claims filed against the GON. She thought that these employees would likely be less willing to work on U.S. property claims in the time before they lose their jobs. We expect the GON to raise this issue during the bilateral review.

NO CREDIBLE DEFENSE OF DECREES 3 AND 38

14. (SBU) Econoff raised several claims that received recent U.S. congressional attention, particularly those of Domingo Calero, whose four claims the Attorney General dismissed based on Decree 38 (1979) in February. Decree 38 mandated the confiscation of property of individuals deemed as "allies of Somoza." Attorney General Hernan Estrada reaffirmed these dismissals in a November 11 letter to the Ambassador. Econoff criticized GON officials for dismissing Calero's claims, noting that the application of Decree 38 was nothing more than a politically motivated, arbitrary act that lacked transparency. Econoff pointed out that there was no formal appeals process to challenge Decree 3 (1979) or 38 dismissals. Zapata and her colleagues sat silently, responding that only Attorney General Estrada had the authority to overturn these decisions. Decrees 3 and 38 dismissals will be contentious issues during the bilateral review.

PATIENCE, UNDERSTANDING, AND MORE EXCUSES

15. (SBU) Throughout the meeting, Zapata asserted that the GON was working diligently to resolve claims, but doing so required patience and understanding. For example, she explained that the software that calculates compensation appraisals needed to be upgraded to allow a detailed explanation of data used to generate the settlement offers. She complained that the Nicaraguan Army does not cooperate much with Attorney General's Office, and that this limits her ability to work on the property claims under its control. Zapata also blamed U.S. claimants for delays in resolving claims, noting that U.S. claimant Juan Barreto, co-owner of the Las Serranias complex (this case involves 29 properties confiscated from the Barreto family by the Army), has failed to provide the documents needed to resolve his claims [Note: We will follow up with Mr. Barreto to see if he has provided the documents requested by the GON. End Note.] We expect the GON to ask for patience and understanding during the bilateral review.

COMMENT

16. (SBU) During the December 11-12 bilateral review, we believe GON officials will plead for patience and understanding. They will proclaim that property claims are complex and difficult, that their resources are few, that past administrations have mismanaged the process, but they are working diligently to "resolve" U.S. claims in a fair and timely manner. Estrada and his staff will find it difficult to explain, however, dismissing 141 claims for administrative reasons and as a consequence of their interpretation of Decrees 3 and 38, as well as the lack of fairness and transparency in determining settlement offers.

SANDERS